

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION  
CASE NO. 5:22-cv-68-BO

YOLANDA IRVING, individually and as the ) natural parent and guardian of J.I., JUWAN ) HARRINGTON, CYDNEEA HARRINGTON, ) KENYA WALTON, individually and as the ) natural parent and guardian of R.W., ZIYEL ) WHITLEY, DYAMOND WHITLEY, ) KAMISHA WHITLEY, NANETTA GRANT ) as the natural parent and guardian of Z.G., and ) EMANCIPATE NC, INC., ) Plaintiffs, ) v. ) THE CITY OF RALEIGH, Officer OMAR I. ) ABDULLAH, Sergeant WILLIAM ROLFE, ) Officer RISHAR PIERRE MONROE, ) Officer MEGHAN CAROLINE GAY, ) Officer DAVID MEAD, Officer JESUS ) ORTIZ, Officer, KYLE PERRIN, Officer ) MICHAEL MOLLERE, Officer KYLE ) THOMPSON, ) Officer VINCENT DEBONIS, Officer ) DANIEL TWIDDY, Officer THOMAS WEBB, ) Officer DAVID McDONALD, Officer DAVID ) GARNER, Chief of Police ESTELLA ) PATTERSON, and City Manager MARCHELL ) ADAMS-DAVID, in their individual capacities, ) Defendants.	) CONSENT MOTION TO EXTEND DISCOVERY DEADLINES
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Pursuant to Federal Rule of Civil Procedure 6(b), and the Court's inherent powers,  
Defendants in this matter move, with the consent of the Plaintiffs, for entry of an order

extending by thirty days the deadline for Defendants' Phase I Rule 26(a)(2) disclosures, and related Phase I deadlines, as follows:

- Defendants' Phase I Rule 26(a)(2) disclosures shall be made by Wednesday, February 1, 2023.
- All Phase I discovery shall be completed by Friday, March 3, 2023.
- Phase I dispositive motions shall be filed by Friday March 31, 2023.
- Mediation shall commence no later than Wednesday, March 8, 2023.

In support of this motion, Defendants show the Court the following:

1. Plaintiffs filed this action on February 22, 2022.
2. Plaintiffs twice amended their complaint. After the second amendment, this litigation now includes 11 plaintiffs and 17 defendants.
3. On July 6, 2022, the Court entered a scheduling order setting the deadline for completion of discovery Phase I as December 20, 2022. [DE 69](#).
4. On November 16, 2022, pursuant to a joint motion by the parties, the Court entered an order extending the deadline for completion of Phase I discovery until February 1, 2023, and extending related deadlines by thirty days. See [DE 139, 140](#).
5. Throughout this time, the parties have been proceeding to timely complete discovery. Among other things, the parties have exchanged thousands of pages of written discovery materials and conducted numerous depositions, including the depositions of eight of the individual plaintiffs, four of the individual defendants, and one third party. The parties have additional plaintiff and defendant depositions scheduled throughout January 2023.

6. Despite the progress discussed above, the parties are working through discovery disputes, such that additional time is reasonably needed to complete Phase I discovery.

7. Among the written discovery materials requested by Defendants are the Individual Plaintiffs' medical records, which are relevant to these Plaintiffs' claims of injury, including psychological injury. The Individual Plaintiffs' medical records are necessary, among other things, for Defendants to obtain an expert opinion on the injuries claimed by the Individual Plaintiffs.

8. Defendants served document requests for the Individual Plaintiffs' medical records nearly six months ago, on July 29, 2022. In responding to these requests, Plaintiffs did not produce responsive documents; however, following a meet and confer by counsel for all parties on November 22, 2022, counsel for Plaintiffs, by letter dated December 14, 2022, reported that counsel had obtained medical releases for the Individual Plaintiffs and, on that day, was submitting the releases to the Plaintiffs' treating physicians.

9. As of the filing of this motion, Plaintiffs have not yet produced any medical records to the Defendants.

10. Because the medical records of the Individual Plaintiffs are necessary for Defendants to obtain an expert opinion on these Plaintiffs' claimed injuries, Defendants reasonably require additional time to disclose expert witnesses pursuant to Rule 26(a)(2). Accordingly, Defendants respectfully request a thirty-day extension of the deadline to disclose defense experts, which deadline is currently Tuesday, January 2, 2023. With the

requested extension, the deadline for Defendants' Rule 26(a)(2) disclosures will be Wednesday, February 1, 2023.

11. Plaintiffs have requested that the Defendants note in this motion that there is an ongoing disagreement concerning discovery responses and that Plaintiffs filed a motion to compel as against the City of Raleigh on December 19, 2022. The City will be requesting a two-week extension of time to respond to that motion and Plaintiffs have consented to that two-week extension.

12. In addition, to allow the parties time to conduct related discovery, Defendants also request a thirty-day extension of each of the additional Phase I discovery deadlines discussed below.

- Currently, the deadline for Phase I fact discovery is Wednesday, February 1, 2023. With a thirty-day extension, the new deadline would be Friday, March 3, 2023.
  - Currently, the deadline for Phase I dispositive motions is Wednesday, March 1, 2023. With a thirty-day extension, the new deadline would be Friday, March 31, 2023.
  - Currently, the deadline for mediation to commence is Monday, February 6, 2023. With a thirty-day extension, the deadline for mediation to commence would be Wednesday, March 8, 2023.
13. The deadlines for which extension is requested have not yet passed.
14. The requests for extensions are made in good faith and not for the purpose of delay.

15. Counsel for Defendants have consulted with counsel for the Plaintiffs who consent to the extensions requested in this motion.

16. For the reasons set forth above, good cause is shown for the requested extensions.

WHEREFORE, Defendants respectfully request that the Court enter an order extending the Phase I discovery deadlines in this matter as follows:

- Defendants' Phase I Rule 26(a)(2) disclosures shall be made by Wednesday, February 1, 2023.
- All Phase I discovery shall be completed by Friday, March 3, 2023.
- Phase I dispositive motions shall be filed by Friday March 31, 2023.
- Mediation shall commence no later than Wednesday, March 8, 2023.

Respectfully submitted,

This the 30th day of December, 2022.

/s/ Leslie C. Packer

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## CERTIFICATE OF SERVICE

I hereby certify that on December 30, 2022, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which sends notification of such filing to all counsel of record as follows:

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